

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION

Elizabeth Brown,)	
)	
Plaintiff,)	Civil Action No. 8:10-cv-2434-RBH-JDA
)	
)	REPORT AND RECOMMENDATION
)	OF MAGISTRATE JUDGE
vs.)	
)	
Michael J. Astrue,)	
Commissioner of Social Security,)	
)	
Defendant.)	

This matter is before the Court for a Report and Recommendation pursuant to Local Rule 73.02(B)(2)(a), D.S.C., and Title 28, U.S.C. § 636(b)(1)(B).¹ Plaintiff brought this action pursuant to 42 U.S.C. §§ 405(g) to obtain judicial review of a final decision of the Commissioner of Social Security (“the Commissioner”), denying her claim for disability insurance benefits (“DIB”). For the reasons set forth below, it is recommended that the Commissioner’s unopposed motion to remand pursuant to sentence four of 42 U.S.C. § 405(g) be granted.

PROCEDURAL HISTORY

Plaintiff filed a claim for DIB on March 13, 2007, alleging disability as of June 15, 2005. [R. 79, 6.] The claim was initially denied on April 17, 2007 [R. 79], and was denied on reconsideration by the Social Security Administration (“the Administration”) on June 1, 2007 [R. 81]. Plaintiff requested an administrative hearing, and on March 10, 2009,

¹A Report and Recommendation is being filed in this case, in which one or both parties declined to consent to disposition by a magistrate judge.

Administrative Law Judge (“ALJ”) Glen H. Watkins held a hearing on Plaintiff’s claim.
[R. 42–72.]

On May 8, 2009, the ALJ issued his decision that Plaintiff was not disabled under the Social Security Act (“the Act”). [R. 4; *see also* R. 24–41.] The Appeals Council granted Plaintiff’s request for review of the hearing decision. [R. 4.] The Appeals Council accepted additional evidence, considered the additional evidence, and added the additional evidence to the record. [R. 4.] On July 23, 2010, the Appeals Council issued its decision that Plaintiff was not entitled to DIB under §§ 216(i) and 223 of the Act. [R. 1–8.]

Plaintiff filed this action for judicial review on September 17, 2010. [Doc. 1.] On May 3, 2011, the Commissioner filed a motion to remand pursuant to sentence four of 42 U.S.C. § 405(g), and Plaintiff does not oppose this motion. [Doc. 15.]

RECOMMENDATION

Wherefore, based upon the Commissioner’s unopposed motion to remand, the Court recommends that the Commissioner’s motion be GRANTED and that the case be REMANDED to the Commissioner for further administrative action.

IT IS SO RECOMMENDED.

Greenville, South Carolina

May 4, 2011

s/Jacquelyn D. Austin
Jacquelyn D. Austin
United States District Judge